2007/2008
Report of the LEGAL SERVICES BOARD OF THE NWT

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MESSAGE FROM THE BOARD

The Legal Services Board has seen a number of changes this year and the implementation of new programs.

The Board was very pleased to put in place a new contractual arrangement to provide 24-hour access to legal services for people taken into custody by the RCMP (*Brydges* services). If a person taken into custody wishes to exercise their right to contact legal counsel, the Board now provides access to a lawyer 24 hours a day, 365 days a year. Rather than our previous process of assigning lawyers each week to take these calls there is now one lawyer contracted to provide this service. The Board is happy with the service being provided and believes that clients are being better served.

The Board and the Department of Justice jointly produced and published the NWT Family Law Manual

Despite shortages of lawyers in the family law area and a developing shortage of criminal lawyers, the Board has maintained its high level of service in both areas of the law. Much of this has been due to the ongoing and committed work of our staff lawyers who are prepared to carry on with large volumes of work and to accept files on short notice.

The Board has continued to assist in the development of the NWT bar by providing articling positions to law graduates and is proud to be assisting, with the Department of Justice, with the final stage in the legal education of some of our northern aboriginal law students. The Board hopes that this program will continue, that students will continue to seek articling positions in the NWT and that more will remain to establish themselves in practice in their home communities.

The Board is grateful for the ongoing support of all our administrative staff, without whom we could not provide the quality of services to which we aspire.

THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2007/08 Board was composed of the following:

Danny Beaulieu	Chairperson, Representing the communities of Łutselk'e, Fort Resolution, Dettah, N'Dilo, Fort Smith to August 2007
Ron Holtorf	Representing the South Slave communities from December 2007
Margaret Mackenzie	Representing the Tłı̨chǫ communities to August 2007
Mary Adele Rabesca	Representing the Tłı̨chǫ communities from December 2007
Reg Tolton	Representing the Public Service to December 2007
Karan Shaner	Representing the Public Service from December 2007
Albert Lafferty	Representing the communities of Fort Providence, Hay River, Hay River Reserve, Enterprise and Kakisa to November 2007
Roy Fabian	Representing the above communities from December 2007
John Hazenberg	Representing the communities of Fort Simpson, Jean Marie River, Wrigley, Fort Liard, Nahanni Butte and Trout Lake
Sheila MacPherson	Representing the Law Society of the NWT
Arlene Hache	Representing Yellowknife
Shirley Kisoun	Representing the communities of Inuvik, Aklavik, Fort McPherson, Tsiigehtchic to August 2007.
Sandra Suliman	Representing the above communities from December 2007
Gilbert Thrasher	Representing the communities of Paulatuk, Ulukhaktok, Sachs Harbour, Tuktoyaktuk
Alphonsine McNeely	Representing the Sahtu communities

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal since 1971. Previously, the Government of Canada was responsible for the administration of justice in the NWT. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates three legal aid clinics; two clinics, one in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides only family law services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act,* RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act,* RSNWT 1988, c. F-4. All Board employees are members of the GNWT Public Service.

Photo taken by Jenny Walsh, Family Law Lawyer

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act:*

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate Territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

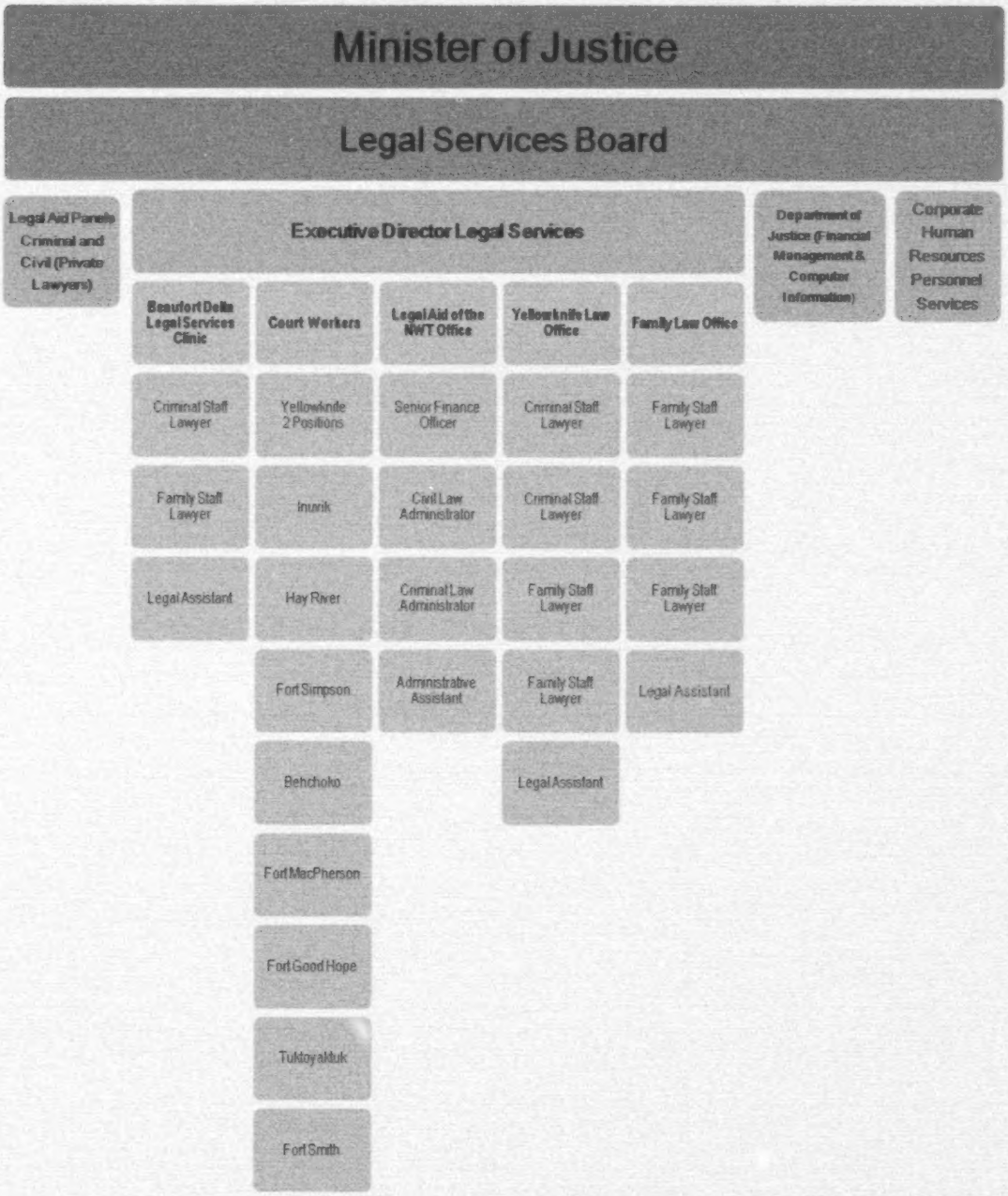
Board Meetings

The Legal Services Board of the NWT met in Yellowknife on two occasions:

June 1, 2007
September 14, 2007

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2008.



COURT WORKER PROGRAM

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure the applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system particularly in more remote communities which do not have the benefit of resident lawyers and where justice is accessible through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial and Youth Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Photo taken by: Jeremy Walsh, Family Law Lawyer

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eleven court workers in ten communities in the NWT. Ten are Board employees and one provides services under an agreement with the Hamlet of Ulukhaktok.

The Aboriginal Court worker Program has had Federal financial support since 1978.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways.

The Board worked with the Department of Justice to produce the Family Law Manual which provides comprehensive information on family law matters in the NWT. The volume has been distributed widely throughout the NWT and is also available on line through the Department of Justice website. The court workers were provided training to allow them to assist people to use the book. The demand for this manual both in hardcopy and on line has been significant.

The Board and the Department have also produced and will continue to work on producing shorter brochures based on specific topics included in the larger manual. These will also be available in French and work will be ongoing to make them available in selected aboriginal languages.

The Law Line was discontinued as it was proving impossible to find lawyers to staff the line and provide the information required. People requiring legal information are being referred to regional court workers who are able to either provide the information required or make the appropriate referrals.

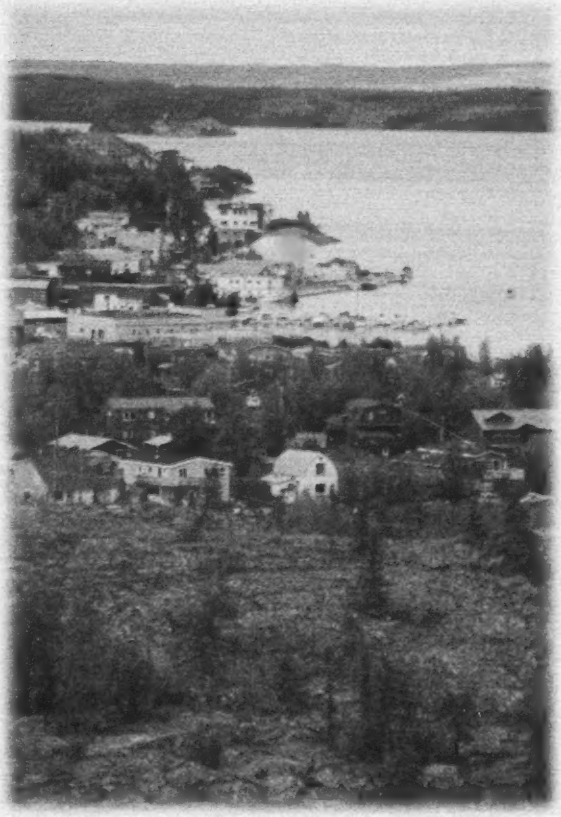


Photo taken by: Daniel Rideout, Criminal Law Staff Lawyer

Staff lawyers are providing legal information on an ongoing basis to callers and those referred by court workers.

Court workers, and the staff and lawyers at our legal aid clinics routinely provided basic legal information. In addition, the Board provides pamphlets about individual rights and remedies, court proceedings, and local resources available to its clients.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. The Board does assess family income when looking at eligibility. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open, or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. There exist, in the opinion of the Executive Director, special circumstances.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed eligible for legal aid and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client is told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The *Act* and *Regulations* specify that certain civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type when a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage are: Workers' Compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After receipt of an application for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or panel members for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is heard. The NWT program uses this service almost exclusively in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible receive a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the *Act* and *Regulations*, the staff may determine that an applicant can contribute to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants maybe subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act*, is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will provide legal aid services even if the youth may not be financially eligible.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency.

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Photo taken by: Kathleen (DeeDee) Wheaton, Civil Law Administrator

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

Yellowknife Law Office

The Yellowknife Law Office provides two family law lawyers, three criminal law lawyers and one support staff member. All Lawyers provide services throughout the NWT.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and has two lawyers and one support staff. The clinic provides services in criminal law and family law primarily in the Beaufort Delta region.

Family Law Clinic

The Family Law Clinic in Yellowknife has two lawyers and one support staff. The Board decided to create a third position in this office at its December 2005 meeting. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

Photo taken by: Pat Waugh, Deh Cho Court worker

APPEALS

There are a number of situations in which an applicant or a lawyer has a right of appeal from a decision made by the Executive Director. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the *Act*. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. This funding agreement expired March 31, 2007 but was extended at pre-existing funding levels of $1,972,327 for a further year. Negotiations between the GNWT and the Federal Department of Justice are ongoing to determine the level of future Federal funding.

Photo taken by: Jeremy Walsh, Family Law Lawyer

Any deficits incurred by the Legal Services Board have been absorbed by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are public servants in the Department of Justice. The Department of Human Resources provides personnel services to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. An annual audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF*

Experience	Hourly Rates	Daily Rates
Student at law	$53	$307
Less than 4 years	$81	$465
4-6 years	$93	$576
7-10 years	$114	$681
11 & more years	$135	$805

The rates are the same regardless of the level of court.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2007-2008:

Legal Counsel I	$ 80,048 – 90,782
Legal Counsel II	$ 87,536 – 99,333
Legal Counsel III	$ 95,862 – 108,742
Legal Counsel IV	$ 104,852 – 118,929
Legal Counsel V	$ 109,668 – 124,404

2007/08 Financial Report

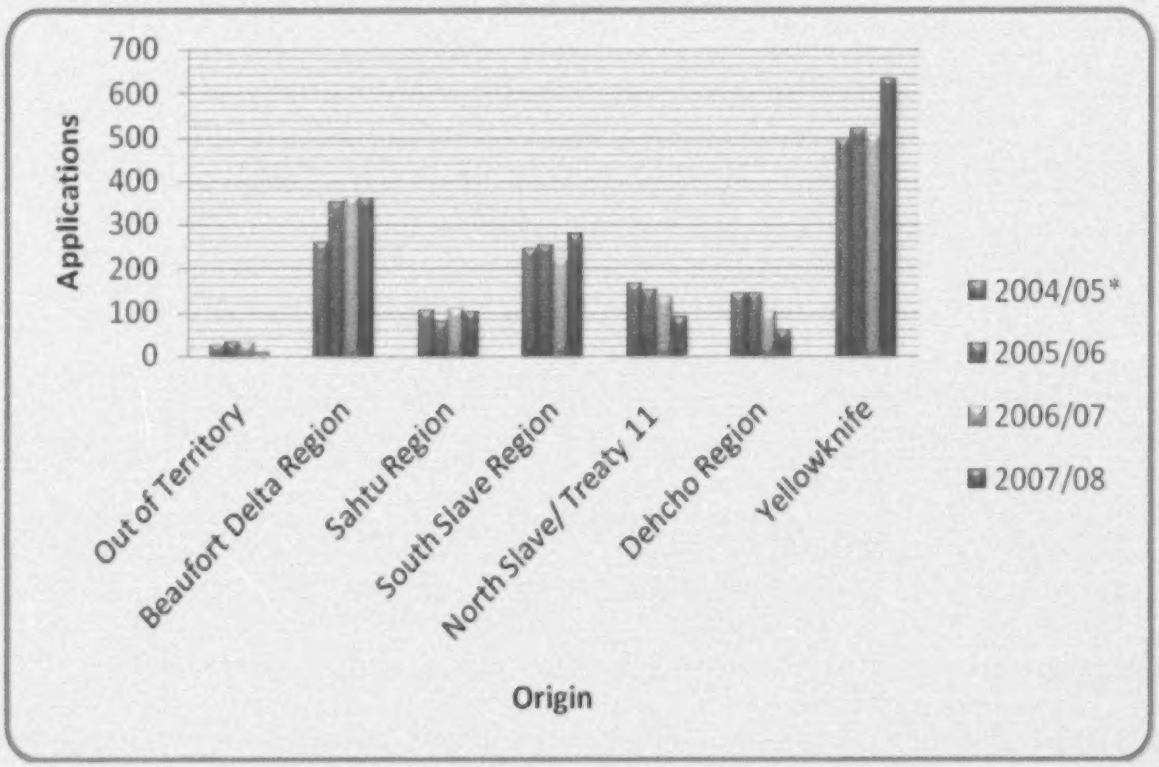
	Actual Expense	Revised Budget	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	493,162	529,000	35,838
Administration Travel	6,334	0	(6,334)
Operations & Maintenance Expenses	66,338	40,000	(26,338)
Total Administration	565,834	569,000	3,166
Court Workers			
Staff Wages and Benefits	896,032	928,500	32,468
Court Worker Travel	61,055	31,000	(30,055)
Operations & Maintenance Expenses	46,694	27,000	(19,694)
Total Court Workers	1,003,781	986,500	(17,281)
Board Costs			
Honoraria	7,604	0	(7,604)
Travel, Accommodation, Meals	9,863	0	(9,863)
Other	5,787	0	(5,787)
Total Board Costs	23, 254	0	(23,254)
Public Legal Education			
Lawline	4,166	0	(4,166)
Projects	0	0	(0)
Other	13,324	0	(13,324)
Total Public Legal Education	17,490	0	(17,490)
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,360,169	1,329,000	(31,169)
Legal Aid Staff Lawyer Travel	17,598	24,000	6,402
Operations & Maintenance Expenses	125,502	119,000	(6,502)
Total Legal Aid Staff Lawyers	1,503,269	1,472,000	(31,269)
Legal Aid Fees & Disbursements	1,944,822	1,885,000	(59,822)
TOTAL	5,058,450	4,912,500	(145,950)

STATISTICAL REPORTS FOR 2007/08

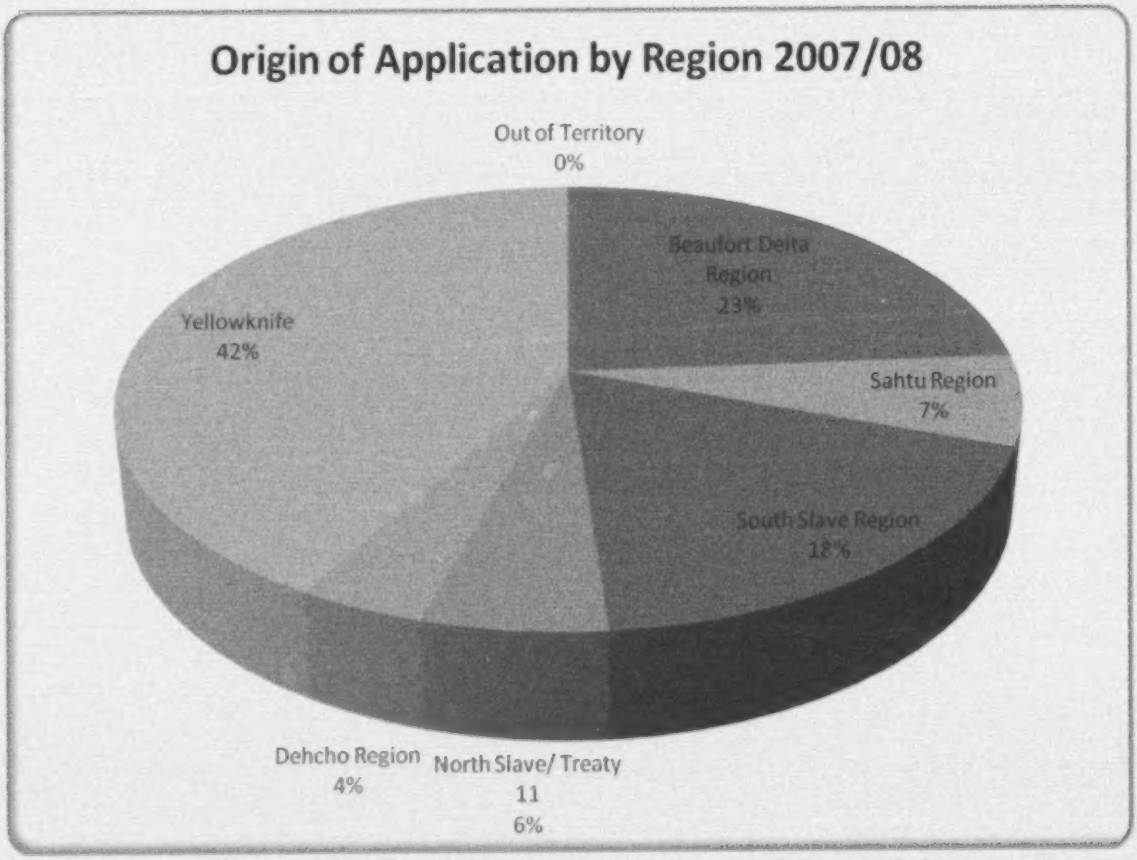
Number of Applications Received

Origin of Application	*2004/05	2005/06	2006/07	2007/08
Out of Territory	24	32	31	7
Beaufort Delta Region	258	349	361	357
Sahtu Region	104	76	106	100
South Slave Region	245	252	222	277
North Slave/Treaty 11	165	150	133	86
Dehcho Region	143	141	101	59
Yellowknife	496	519	501	632

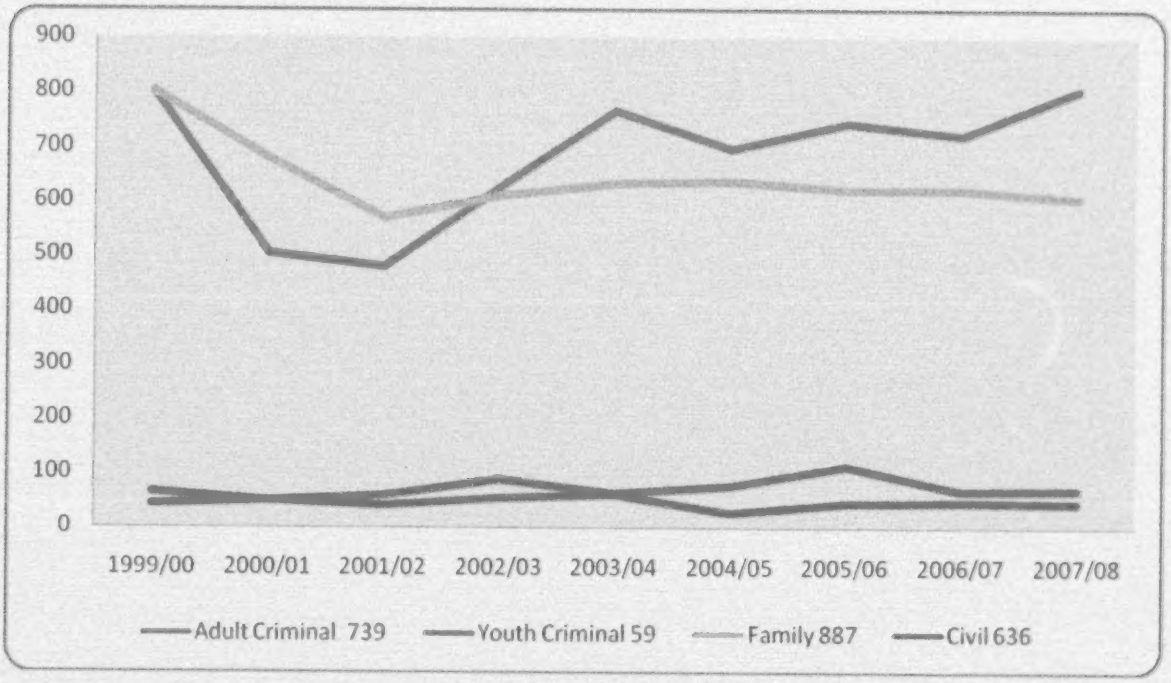
*The number of applications (Criminal matters (Adult/Youth), Civil and Family matters) received for 2004/05 has been updated. Because of a vacant court worker position, applications received in the Deh Cho had previously been reported in other regions. The new numbers reflect the community where the applicant resided.



Oringin Of Application	2007/08
Out of Territory	0%
Beaufort Delta Region	23%
Sahtu Region	7%
South Slave Region	18%
North Slave/Treaty 11	6%
Dehcho Region	4%
Yellowknife	42%

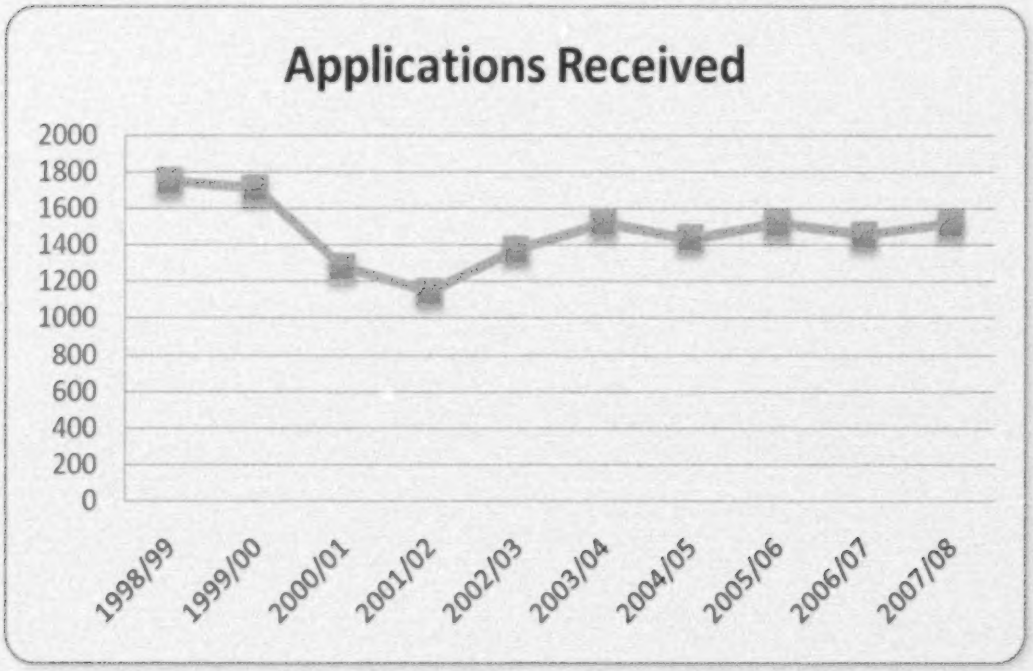


Number of Applications Received by Case Type

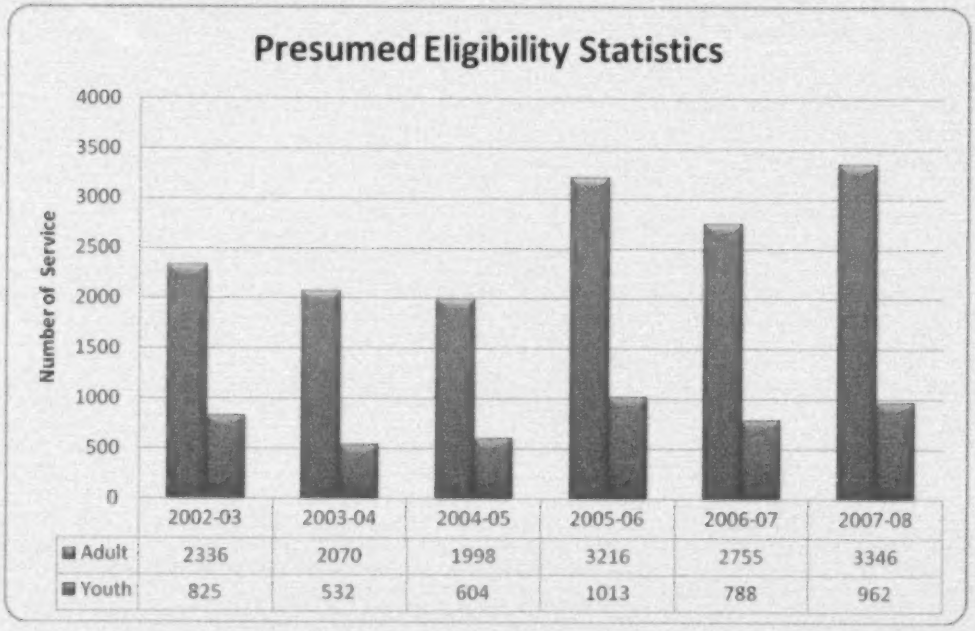


Type of Case	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08
Adult Criminal	802	503	479	626	766	696	742	721	804
Youth Criminal	63	48	57	86	62	75	111	67	69
Family	801	676	569	609	633	636	621	621	606
Civil	43	50	41	53	61	26	45	46	44

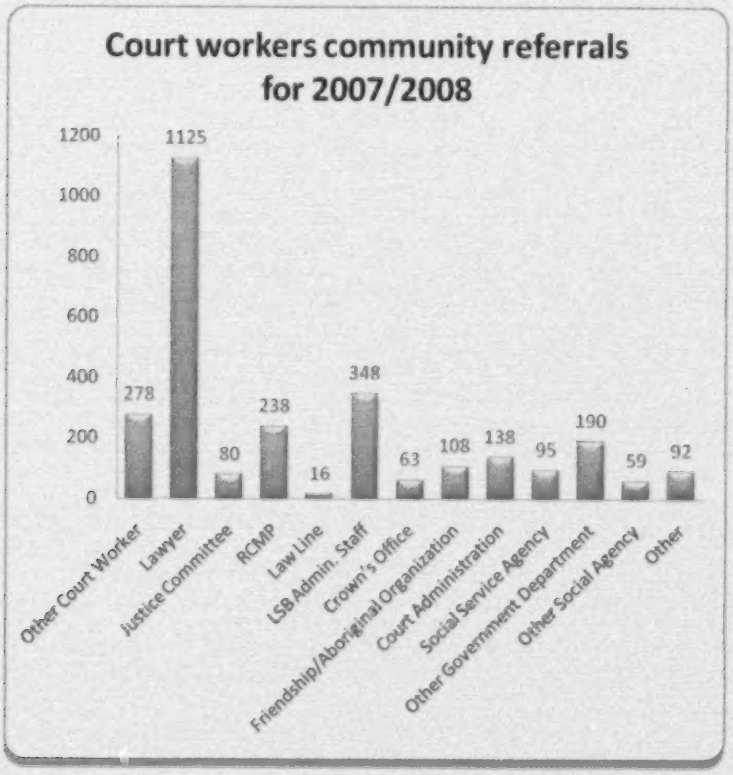
Number of Applications by Fiscal Year (April 01 to March 31).



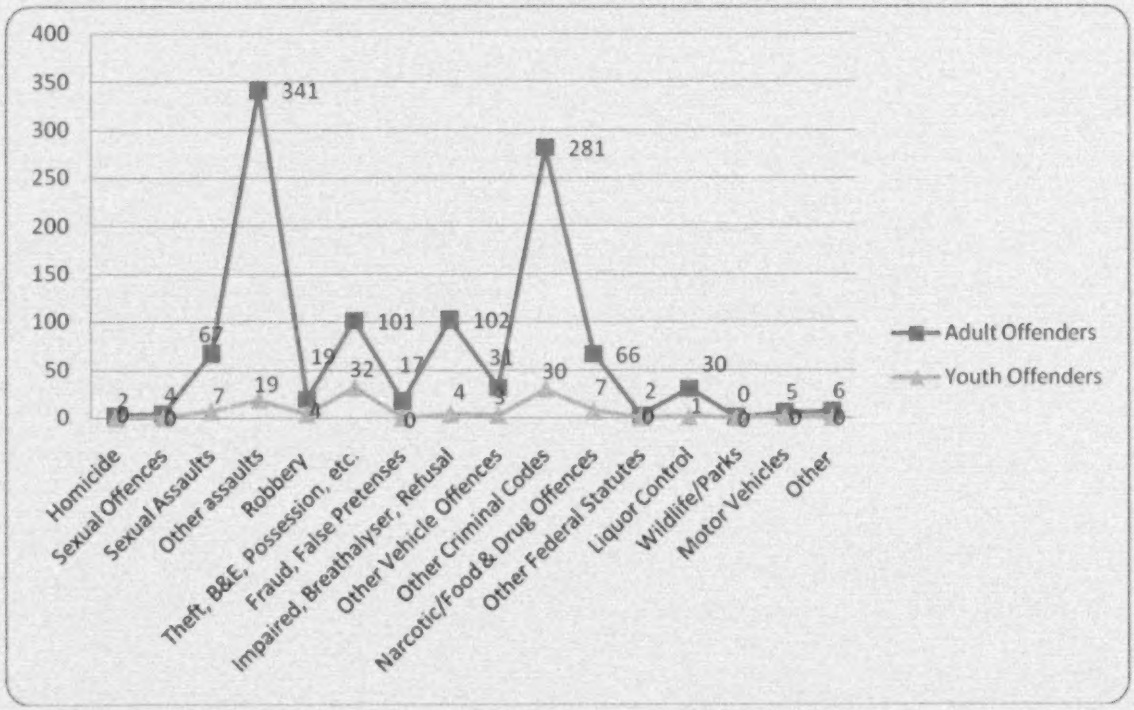
Fiscal Year	Applications Received
1998/99	1748
1999/00	1709
2000/01	1277
2001/02	1146
2002/03	1374
2003/04	1522
2004/05	1435
2005/06	1519
2006/07	1455
2007/08	1518



*These numbers reflect total services provided and not individuals who received services. One individual may have been dealt with under the policy on a number of occasions in relation to one charge.

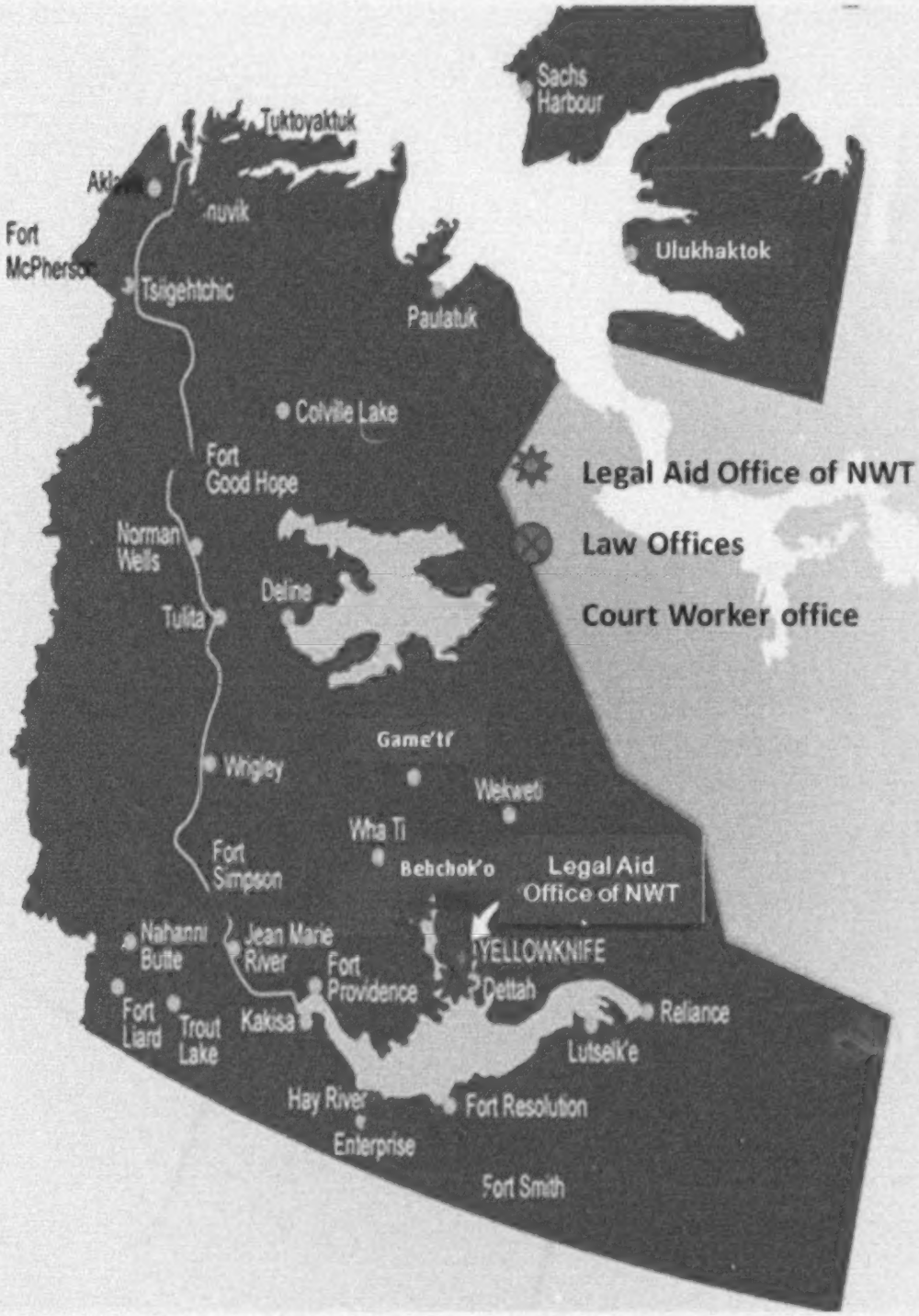


BRYDGES SERVICES
NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER 2007/2008



	Adult	Youth
Homicide	2	0
Sexual Offences	4	0
Sexual Assaults	67	7
Other Assaults	341	19
Robbery	19	4
Theft, B/E, Possession, Etc.	101	32
Fraud, False Pretenses	17	0
Impaired, Breathalyzer, Refusal	102	4
Other Vehicle Offences	31	3
Other Criminal Codes	281	30
Narcotic/Food & Drugs Offences	66	7
Other Federal Statues	2	0
Liquor Control	30	1
Wildlife/Parks	0	0
Motor Vehicles	5	6
Other	6	0
Total	**1074**	**107**

Phone calls received by detained persons that wish to exercise their right to contact legal counsel.


Sachs Harbour
Tuktoyaktuk
Aklavik
Inuvik
Fort McPherson
Tsiigehtchic
Paulatuk
Ulukhaktok
Colville Lake
Fort Good Hope
Norman Wells
Deline
Tulita
Legal Aid Office of NWT
Law Offices
Court Worker office
Wrigley
Ga me'tì
Wekweti
Wha Ti
Fort Simpson
Behchok'o
Legal Aid Office of NWT
Nahanni Butte
Jean Marie River
Fort Providence
YELLOWKNIFE
Dettah
Reliance
Fort Liard
Trout Lake
Kakisa
Lutselk'e
Hay River
Fort Resolution
Enterprise
Fort Smith

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
YK Centre East 3rd Floor
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

Yellowknife Law Office
YK Centre East – 3rd Floor
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office
Unit 44, 5014-49th Street
Centre Square Mall
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Hay River Court Worker
105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Behchokǫ̀ Court Worker
General Delivery
Behchokǫ̀ NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith Court Worker
P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Court Workers
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Fort Simpson Court Worker
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk Court Worker
P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Fort McPherson Court Worker
P.O. Box 304
Fort McPherson NT X0E 0J0
Tel: (867) 952-2756
Fax: (867) 952-2042

Ulukhaktok Court Worker
P.O. Box 157
Ulukhaktok NT X0E 0S0
Tel: (867) 396-8002
Fax: (867) 396-3256

Inuvik Court Worker
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